

HOUSE No. 2496

By Mr. Larkin of Pittsfield, petition of Peter J. Larkin relative to improving tax compliance associated with the registration of motor vehicles. Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT IMPROVING TAX COMPLIANCE ASSOCIATED WITH THE REGISTRATION OF MOTOR VEHICLES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 58 of the General Laws, as appearing in
2 the 1996 Official Edition, is hereby amended by inserting after
3 section 20A the following new section:—

4 Section 20B. Notwithstanding any general or special law to the
5 contrary, if, as of June 30th of the current calendar year, any city
6 or town has collected less than 85 percent of the amount com-
7 mitted to the city or town by the Registry of Motor Vehicles for
8 motor vehicle excise collection for all properly registered vehicles
9 or trailers pursuant to the provisions of chapter 60A for the prior
10 calendar year, less any applicable abatements, then the state trea-
11 surer shall deduct from the amount distributable or payable to said
12 city or town from the cherry sheet distribution, so-called, for the
13 fiscal year beginning immediately after June 30th of the current
14 calendar year, a sum equal to the amount of the motor vehicle
15 excise which remains uncollected from the prior calendar year
16 after subtracting any applicable abatements.

1 SECTION 2. Section 18 of Chapter 59 of the General Laws, as
2 appearing in the 1996 Official Edition, is hereby amended by
3 inserting after line 95, the following clauses:—

4 Eighth, Motor vehicles or trailers, used in the conduct of a
5 business and owned by a business entity, shall be assessed in the
6 city or town in which the principal place of business in the com-

7 monwealth of the business entity is located unless: (i) the registrar
8 has provided the assessor pursuant to the provisions of chapter
9 60A.

10 Eighth A, For purposes of this clause the following words shall
11 have the following meanings:—

12 “Business entity,” used in this clause shall include a business
13 corporation as defined in chapter 156, a professional corporation
14 organized under chapter 156A, a subchapter S corporation as
15 defined in section thirteen hundred sixty-one of the Internal Rev-
16 enue Code, a limited liability corporation, a limited liability part-
17 nership, a partnership, voluntary association or sole proprietorship
18 conducting business in the commonwealth.

19 “Motor vehicles or trailers,” used in the clause shall be applic-
20 able to motor vehicles or trailers which have not been assessed
21 and taxed subject to the provisions of Chapter 60A and chapter
22 63.

23 “Fair cash value,” the motor vehicle or trailer’s list price for
24 motor vehicles or trailers of the same make, type, model, and year
25 of manufacture, or in the case of motor vehicles or trailers which
26 are part of a larger fleet of substantially similar motor vehicles or
27 trailers, the average fair cash value of the motor vehicles or
28 trailers in the fleet.

29 “Fairly apportioned,” allocated so as to reflect only the amount
30 of time during which the motor vehicle or trailer was physically
31 located in a city or town, according to records kept by the busi-
32 ness entity in the regular course of its business.

33 The assessed value of such motor vehicles and trailers shall be
34 fair cash value fairly apportioned.

1 SECTION 3. Section 1 of chapter 60A of the General Laws, as
2 appearing in the 1996 Official Edition, is hereby amended by
3 striking the first paragraph and inserting in place thereof the
4 following:—

5 Section 1. Except as hereinafter provided, there shall be
6 assessed and levied in each calendar year on every motor vehicle
7 and trailer, other than auto homes, registered under chapter
8 ninety, for the privilege of such registration, as excise measured
9 by the value thereof, as hereinafter defined and determined, at the
10 rate of twenty-five dollars per thousand of valuation; and on auto

11 homes, registered under chapter ninety, for the privilege of such
12 registration, an excise measured by the value thereof, as here-
13 inafter defined and determined, at the rate of ten dollars per thou-
14 sand of valuation. For the purpose of this excise the value of each
15 such motor vehicle or trailer, including auto homes, shall be
16 deemed to be the value, as determined by the commissioner, or
17 motor vehicles, trailers, or auto homes of the same make, type,
18 model, and year of manufacture as designated by the manufac-
19 turer, but not in excess of the following percentages of the list
20 price established by the manufacturer for the year of manufacture,
21 namely:—

1 SECTION 4. Section 2A of chapter 60A of the General Laws,
2 as appearing in the 1996 Official Edition, is hereby amended in
3 line 28 by striking the words “as the case may be.” and inserting
4 in place thereof the following:— as the case may be; provided fur-
5 ther, that such notice of nonpayment may be transmitted to the
6 registrar whether or not said commissioner or local tax collector
7 has issued any warrant to another officer to collect said excise.

1 SECTION 5. Section 6 of said chapter 60A is hereby amended
2 by inserting after section 6, the following section:—
3 Section 6½A. In any instance where a motor vehicle or trailer
4 is the subject of a lease agreement for a period of 30 days or more,
5 the excise locally assessable under this chapter, shall be laid and
6 collected at the address of the lessee of the motor vehicle or
7 trailer. If the lessee is an individual, then address will be the
8 domicile of said individual. If the lessee is a business entity, as
9 defined in clause eighth A of section 18 of chapter 59, the address
10 will be its principal place of business in the commonwealth.

1 SECTION 6. Section 1 of Chapter 62 of the General Laws, as
2 most recently amended by Chapter 319 of the Acts and Resolves
3 of 1998, is hereby amended by striking out paragraph (c) and
4 inserting in its place the following:—
5 (c) “Code”, the Internal Revenue Code of the United States, as
6 amended on January first, nineteen hundred and eighty-eight and
7 in effect for the taxable year; provided, however, that for the pur-
8 poses of determining qualified transportation fringe benefits, the

9 “Code” shall include the amendments made to section 132(f) of
10 the Internal Revenue Code of the United States as of July 16,
11 1998 and in effect for the taxable year.

1 SECTION 7. Section 49A of chapter 6C of the General Laws,
2 as appearing in the 1996 Official Edition, is hereby amended by
3 inserting after line 27 the following subsection:—

4 (d) Any person who owns or leases a motor vehicle or trailer
5 that is required to be registered in the commonwealth under the
6 provisions of chapter 90, and improperly registers said motor
7 vehicle or trailer in another state or misrepresents the place of
8 garaging of the motor vehicle or trailer in another city or town,
9 shall be considered in violation of laws of the commonwealth
10 relating to taxes provided for in chapter 60A, chapter 64H or
11 chapter 64I; provided, that such right, license, or contract pro-
12 vided for in paragraphs (a) and (b) shall not be issued or renewed,
13 unless and until the person or business entity has paid all taxes
14 due at the time of application for said right, license, or contract.

15 (e) Any person who, for the purpose of evading payment of a
16 tax pursuant to chapters 59 through 64J inclusive, willfully makes
17 and subscribes any return, form, statement or other document pur-
18 suant to the provisions of paragraphs (a), (b) or (d) above that
19 contains or is verified by a written declaration that is made under
20 the penalties of perjury which information he does not believe to
21 be true and correct as to every material matter that he has com-
22 plied with all laws of the commonwealth relating to taxes, shall be
23 subject to the provisions, and punishable by the appropriate fines,
24 as outlined in section 73 of this chapter.

1 SECTION 8. Subsection (c) of section 3 of chapter 64H of the
2 General Laws, as appearing in the 1996 Official Edition, is hereby
3 amended by inserting, in line 17, after the word “tax,” the
4 following new sentence:— On any form prescribed by the com-
5 missioner under this section, the purchaser shall be required to
6 identify the place of his principal residence under the pains and
7 penalties of perjury.

1 SECTION 9. Section 2 of Chapter 90 of the General Laws, as
2 appearing in the 1996 Official Edition, is hereby amended by

3 inserting after the third sentence the following new sentence:—
4 For any motor vehicle or trailer that is leased for more than 30
5 days, the application shall also identify the name and address of
6 the lessee. If the lessee is an individual, the address shall be the
7 said individual's principal residence. If the lessee is a business
8 entity, as defined in clause eighth A of section 18 of chapter 59,
9 the address shall be said lessee's principal place of business in the
10 commonwealth.

1 SECTION 10. Section 3 of said chapter 90, as so appearing, is
2 hereby amended in lines 11-15, by striking out the words:— “on
3 more than thirty days in the aggregate in any one year or, in any
4 case where the owner thereof acquires a regular place of abode or
5 business or employment within the commonwealth, beyond a
6 period of thirty days after acquisition thereof,”.

1 SECTION 11. Said section 3 of said chapter 90, as so
2 appearing, is hereby further amended by adding at the end of the
3 first paragraph the following sentence:—
4 “The owner or operator of such a motor vehicle or trailer must,
5 while operating such a motor vehicle or trailer, have on his own
6 person in an easily accessible place, proof of a policy providing
7 such insurance or a certificate of an insurance company stating
8 that such a policy has been issued and is currently in effect.”

1 SECTION 12. Said section 3 of said chapter 90, as so
2 appearing, is hereby amended in line 121 by striking out the word
3 “three”, and inserting in place thereof the word:— “two”.

1 SECTION 13. Said chapter 90, as so appearing, is hereby
2 amended by inserting after section 3 the following section:—
3 Section 3½ (1) Any person claiming to be a “non-resident” for
4 purposes of section 3 of chapter 90, shall be deemed to be a resi-
5 dent of the commonwealth during any period in which such
6 person:
7 (a) obtained an exemption pursuant to chapter 59, section 5,
8 clause 17, 17C, 17C½, 17D, 18, 22, 22A, 22B, 22C, 22D, 22E,
9 37, 37A, 41, 41A, 41B, 41C, 42, or 43;

- 10 (b) obtained an exemption pursuant to chapter 59, section 5C;
11 (c) filed a Massachusetts resident income tax return pursuant to
12 chapter 62;
13 (d) obtained a rental deduction pursuant to chapter 62, section
14 3 (B)(a)(9);
15 (e) declared in a home mortgage settlement document that the
16 mortgaged property located in the commonwealth would be occu-
17 pied as his principal residence;
18 (f) obtained homeowner's liability insurance coverage on prop-
19 erty that was declared to be occupied as a principal residence;
20 (g) filed a certificate of residency and identified place of resi-
21 dence in a city or town in the commonwealth in order to comply
22 with a residency ordinance as a prerequisite for employment with
23 governmental entity;
24 (h) paid on his or her own behalf, or on behalf of a child or
25 dependent for whom the person had custody, resident instate
26 tuition rates while attending a state sponsored college, community
27 college, or university;
28 (i) applied for and received public assistance from the com-
29 monwealth for himself or his child or dependent for whom the
30 person has custody;
31 (j) his child or dependent for whom the person had custody is
32 enrolled in a public school in a city or town in the commonwealth,
33 provided, however, this shall not include circumstances where the
34 cost of education is paid for said person, child or dependent by
35 another education jurisdiction;
36 (k) is registered to vote in the commonwealth;
37 (l) obtained any benefit, exemption, deduction, entitlement,
38 license, permit or privilege by claiming principal residence in the
39 commonwealth; or
40 (m) is a resident under any other written criteria under which
41 the commissioner of revenue may determine residency in the com-
42 monwealth.
- 43 (2) Notwithstanding any general or special law to the contrary,
44 the custodian of any records referred to in paragraph (1) that are
45 not accessible to the general public shall provide, upon request, to
46 the registrar of motor vehicles, the commissioner of revenue, the
47 local board of assessors, or a local or state police officer, access to
48 certain information contained therein exclusively for purposes of

49 enforcing the provision of chapters 59, 60A, 64H, 64I and 90; pro-
50 vided, however, that the disclosure of information contained
51 within such records referred to in clauses (c) and (d) of paragraph
52 (1) shall be made by the commissioner of revenue to the afore-
53 mentioned persons and shall be limited to the taxpayer's name, the
54 taxpayer's primary place of residence or domicile; the type of
55 return filed; the taxpayer identification number, the determination
56 of whether the taxpayer took the rental deduction on his income
57 tax return, and an explanation of the factors which indicated said
58 taxpayer's residency within the commonwealth.

59 In the event that records maintained by a custodian indicate that
60 a person is deemed to be a resident under paragraph (1), said cus-
61 todian may certify in writing as to the facts contained in such
62 records and such certification shall be prima facie evidence of the
63 person's residency within the commonwealth in any proceeding
64 involving enforcement of said chapters, including any proceedings
65 under paragraph (3).

66 (3) Any person who improperly registers a motor vehicle or
67 trailer in another state or misrepresents the place of garaging of
68 such motor vehicle or trailer within the commonwealth, for pur-
69 poses of evading the payment of motor vehicle excise, sales and
70 use tax, or insurance premiums, or to reduce the amount of such
71 payment, shall be punishable by a fine of not less than 200 dollars
72 nor more than 1,000 dollars for each offense. For purposes of this
73 section, each taxable year that a motor vehicle or trailer is improp-
74 erly registered shall be considered a separate offense, provided,
75 however, that the maximum number of years that are subject to
76 the penalties under this section shall be no more than three taxable
77 years. The fines imposed pursuant to this section shall be divided
78 as follows: 75 percent of said fines shall be paid over to the trea-
79 sury of the city or town in whose jurisdiction the motor vehicle is
80 customarily garaged; and 25 percent of said fines shall be paid
81 over to the treasurer of the commonwealth to be deposited in the
82 highway fund to offset costs associated with the implementation
83 of the provisions of this act; provided further, that the Massachu-
84 setts collectors and treasurers association in conjunction with the
85 treasurer of the commonwealth, shall report quarterly to the house
86 and senate committees on ways and means the total amount of
87 fines imposed and collected pursuant to this section.

1 SECTION 14. Section 6B of said chapter 90 is hereby
2 amended by striking out Section 6B and inserting in its place the
3 following:—

4 Section 6B. Notwithstanding any contrary provision of law, the
5 registrar shall issue two number plates for all passenger vehicles.
6 Such plates shall be displayed at the front and rear of the vehicle
7 for which they are issued, and all consistent provisions of law or
8 of rules and regulations relating to number plates shall apply to
9 such plates. To complete the reissue conversion to two number
10 plates for all passenger vehicles, distribution to pairs shall begin
11 no later than January 1, 2000. Successive new general issues of
12 registration number plates shall be issued every seven years there-
13 after.

1 SECTION 15. Section 34H of said chapter 90 is hereby
2 amended after line 52, by inserting the following new para-
3 graph:—

4 The registrar, upon receipt of evidence in a form satisfactory to
5 the registrar, that a non-resident has operated a motor vehicle or
6 trailer upon the roads of the commonwealth without the compul-
7 sory motor vehicle liability insurance required by section 3 of
8 chapter 90 with respect to such motor vehicle or trailer, shall
9 revoke the non-resident driving privileges of such person. Said
10 uninsured motor vehicle or trailer may be impounded and stored
11 by a duly authorized police officer, who shall take possession of
12 the registration plates. The owner or non-resident driver must
13 submit evidence satisfactory to the registrar that said motor
14 vehicle or trailer is registered and insured pursuant to said section
15 3 before the registration plates are returned and the motor vehicle
16 or trailer may be lawfully propelled upon the roads of the com-
17 monwealth, and the non-resident driving privileges reinstated.

1 SECTION 16. Section 2 of chapter 90C of the General Laws, as
2 appearing in the 1996 Official Edition, is hereby amended by
3 inserting after the word “ninety”, in line 22 the following sen-
4 tence:— In any case where a question is raised whether the motor
5 vehicle or trailer is properly insured under section 34 of chapter
6 90, the time for the issuance of a citation shall remain open until
7 such time as the validity of any certificate of insurance is verified.

1 SECTION 17. Notwithstanding any general or special law to
2 the contrary, any person, or business entity as defined in clause
3 eighth A of section 18 of chapter 59, who willfully makes and
4 subscribes any return, form statement or other document, pre-
5 scribed by the commissioner pursuant to the provisions of section
6 105 of chapter 60 or section 3 of chapter 62C, under the penalties
7 of perjury, to obtain any benefit, exemption, deduction, entitle-
8 ment, right, license, or privilege by claiming principal residence
9 in the commonwealth, and who improperly registers a motor
10 vehicle or trailer in another state or misrepresents the place of
11 garaging in another city or town, shall be punished by a fine of
12 not less than 200 dollars nor more than 1,000 dollars for each
13 offense. For purposes of this section, each taxable year that a
14 motor vehicle or trailer is improperly registered shall be consid-
15 ered a separate offense, provided, however, that the maximum
16 number of years that are subject to the penalties under this section
17 shall be no more than three taxable years. The fines imposed pur-
18 suant to this section shall be divided as follows: 75 percent of said
19 fines shall be paid over to the treasury of the city or town in
20 whose jurisdiction the motor vehicle is customarily garaged; and
21 25 percent of said fines shall be paid over to the treasurer of the
22 commonwealth to be deposited in the highway fund to offset costs
23 associated with the implementation of the provisions of this act;
24 provided further, that the Massachusetts collectors and treasurers
25 association in conjunction with the treasurer of the common-
26 wealth, shall report quarterly to the house and senate committees
27 on ways and means the total amount of fines imposed and col-
28 lected pursuant to this section. Inconsistency in a person's stated
29 residency on any forms, returns, statements or other documents
30 with stated residency on forms required for the proper registration
31 of a person's motor vehicle shall be prima facie evidence of a
32 willful intent to evade compliance with all applicable motor
33 vehicle registration laws of the commonwealth.

1 SECTION 18. In order to encourage the proper registration of
2 motor vehicles and trailers in the commonwealth and the payment
3 of taxes and fees owed under the provisions of chapter 60A,
4 chapter 64H, chapter 64I, and chapter 90 to the commonwealth
5 and its municipalities on a voluntary basis, the registrar of motor

6 vehicles and the commissioner of revenue are hereby authorized
7 and directed to establish a three month period during which all
8 penalties for the non-payment of the taxes and fees imposed by
9 chapter 60A, chapter 64H, chapter 64I and chapter 90 shall be
10 waived if any owner voluntarily registers a motor vehicle or
11 trailer that was unregistered, uninsured, or improperly registered
12 in another state or another city or town. Said three month period
13 shall commence on or before April 1, 1999. Such waiver shall
14 also apply to unpaid taxes, interest and/or fees that would have
15 been assessed on a properly registered motor vehicle or trailer.
16 Other terms and conditions may be determined by the registrar
17 and the commissioner of revenue.

1 SECTION 19. There is hereby established a special commis-
2 sion for the purpose of reviewing the application of the provisions
3 of this act, hereinafter referred to as "the commission". The com-
4 mission shall consist of nine members appointed as follows: three
5 members to be appointed by the speaker of the house, one of
6 whom shall represent the northern border communities of the
7 commonwealth, one of whom shall be a member of the judiciary
8 of the Lawrence District Court, and one of whom shall represent
9 the taxpayers of the Commonwealth; three members to be
10 appointed by the president of the senate, one of whom shall be a
11 member of the Merrimack Valley Chamber of Commerce, one of
12 whom shall represent providers of auto insurance in the common-
13 wealth, and one of whom shall be a member of the Massachusetts
14 Collectors and Treasurers' Association; and three members to be
15 appointed by the governor, one of whom shall be an Officer of the
16 State Police, one of whom shall be an employee of the Registry of
17 Motor Vehicles, and of whom shall be an employee of the Office
18 of the Inspector General. No member of the commission shall
19 receive compensation for services rendered to the commission.
20 Said commission members shall be appointed by October 1, 1998.
21 The commissioner of the Department of Revenue, or his
22 designee, shall serve as the chairman of the commission. The
23 commission shall review the Department of Revenue's implemen-
24 tation of the provisions of this act, including the procedures devel-
25 oped to review records as provided for in section 11 of this act,
26 and the enforcement of the provisions relating to automobile reg-

27 istration, insurance, excise and sales tax created or amended by
28 this act. The commission shall meet as often as is necessary for
29 the conduct of its business. The commission shall adopt such
30 rules and establish such procedures as it considers necessary for
31 the conduct of its business. No action of the commission shall be
32 considered official unless approved by a majority vote of the
33 members of the commission present at the meeting.

34 The commission shall report to the General Court the results of
35 the review of the implementation of the provisions of this act,
36 together with recommendations and drafts of legislation, if neces-
37 sary, to continue the enforcement of the provisions of this act by
38 filing the same with the governor of the commonwealth and the
39 clerks of the senate and house of representatives on or before the
40 first Monday of February, 1999. Said clerks shall forward copies
41 of said report to the chairs of the joint committee on taxation and
42 the senate and house committees on ways and means. Said report
43 shall fulfill all such reporting requirements pertaining to the issue
44 of road tax evasion pursuant to Section ____ of Chapter ____ of
45 the Acts of 1997.

1 SECTION 20. The provisions of section 1 shall be effective for
2 fiscal years beginning on or after July 1, 1999.